

Amendments to Senate Bill No. 169
3rd Reading Copy

Requested by Representative Bryce Bennett

For the House State Administration Committee

Prepared by Sheri Scurr
April 1, 2015 (9:10am)

1. Title, page 1, line 4.

Strike: "UNDER CERTAIN CIRCUMSTANCES"

2. Title, page 1, line 5.

Following: "SENATE;"

Insert: "REVISING PROCEDURES FOR AN ELECTION TO FILL A VACANCY IN
THE UNITED STATES HOUSE OF REPRESENTATIVES;"

3. Title, page 1, line 5 through line 6.

Following: "TIMELINES" on line 5

Strike: "TO" on line 5 through "ANOTHER ELECTION" on line 6

4. Title, page 1, line 7.

Strike: "ALLOWING"

Insert: "REQUIRING"

Strike: "CERTAIN"

Insert: "A"

Strike: "APPOINTMENTS"

Insert: "APPOINTMENT"

Following: "FILL"

Strike: "VACANCIES"

Insert: "THE VACANCY"

5. Title, page 1, line 8 through line 9.

Strike: "REQUIRING" on line 8 through "TERM;" on line 9

6. Title, page 1, line 10.

Following: "OFFICEHOLDER"

Insert: "UNLESS THE VACATING OFFICEHOLDER WAS ELECTED AS AN
INDEPENDENT CANDIDATE"

Strike: "A PARTY NOMINATION OR"

7. Title, page 1, line 11.

Following: "PETITIONS"

Insert: "FOR AN ELECTION TO FILL A VACANCY"

Following: "SECTIONS"

Insert: "13-10-505 AND"

Strike: "AND 13-25-205"

8. Title, page 1, line 12.

Strike: "SECTION"

Insert: "SECTIONS"

Following: "13-25-202"

Insert: "AND 13-25-205"

9. Page 1.

Following: line 14

Strike: everything after the enacting clause

Insert: "Section 1. Section 13-10-505, MCA, is amended to read:

"13-10-505. **Applicability.** The provisions of 13-10-501 through 13-10-504 ~~shall~~ may not be used to fill vacancies or to nominate candidates in nonpartisan elections ~~except for nominations to fill a vacancy as provided in 13-25-205."~~

Insert: "Section 2. Section 13-25-203, MCA, is amended to read:

"13-25-203. **Vacancy in office of United States senator or representative.** (1) If a vacancy occurs in the office of United States senator or representative, the governor shall immediately order an election to be held to fill the vacancy, ~~except as provided in subsection (3).~~

(2) (a) The election to fill the unexpired term must be held no less than 85 or more than 100 days from the date on which the vacancy occurs, except that if the vacancy occurs 150 days or less before a primary election or between the primary and general elections in odd-numbered years, the election must be held with the primary or general election. An election to fill the vacancy must be held in conjunction with the next federal, state, or municipal primary or general election that is not less than 125 days after the vacancy occurs. The election must be conducted as a separate election for the specific purpose of filling the unexpired term of the vacating officeholder and is in addition to the regular federal primary or federal general election for the next term of office.

(b) Each political party that had a candidate on the ballot in the last federal general election for the office may choose a candidate according to the party's rules.

(c) Political party nominations under subsection (2)(b) and nominating petitions under 13-10-503 or 13-10-601 must be filed by 5 p.m. on the 85th day before the election.

(3) (a) If the vacancy occurs between the primary and general election in even-numbered years, the ~~The~~ candidate elected to the office for the succeeding full term at an election to fill the vacancy shall, following the election's certification and upon being sworn in by the United States senate or house of representatives, immediately take office to fill the unexpired term.

(b) If the election to fill the vacancy is held at the same time as the federal general election to fill the office for the next regular term, the term of office for the person elected to fill the vacancy must commence immediately, as provided in

subsection (3)(a), irrespective of whether the person elected to fill the vacancy is the same person who wins the general election for the new term.

(4) (a) The governor shall make a temporary appointment to fill a vacancy in the United States senate or house of representatives. The term of office for the appointee is only until the person elected to fill the vacancy is sworn in.

(b) The person appointed by the governor must be of the same political party as the vacating officeholder when the officeholder was elected to that office unless the person was elected as an independent candidate.

(5) If the person vacating the office represented a political party, then:

(a) within 3 days after being notified of a vacancy, the governor shall notify the political party that was represented by the vacating officeholder;

(b) within 15 days after being notified of a vacancy, the state party central committee shall forward to the governor a list of three prospective appointees; and

(c) within 15 days after receiving the list of prospective appointees, the governor shall appoint a person on the submitted list to fill the vacancy."

Insert: "NEW SECTION. Section 3. {standard} Repealer. The following sections of the Montana Code Annotated are repealed:
13-25-202. Vacancy in office of United States senator.
13-35-205. Tampering with election records and information."

Insert: "NEW SECTION. Section 4. Effective date. [This act] is effective on passage and approval."

- END -

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As of: April 1, 2015 (9:13am)

LCsubs

**** Bill No. ****

Introduced By *****

By Request of the *****

A Bill for an Act entitled: "An Act REQUIRING AN ELECTION IN THE EVENT OF A VACANCY IN THE UNITED STATES SENATE; REVISING PROCEDURES FOR AN ELECTION TO FILL A VACANCY IN THE UNITED STATES HOUSE OF REPRESENTATIVES; MODIFYING CERTAIN TIMELINES; REQUIRING THE GOVERNOR TO MAKE A TEMPORARY APPOINTMENT TO FILL A VACANCY IN THE UNITED STATES SENATE OR HOUSE OF REPRESENTATIVES; REQUIRING A TEMPORARY APPOINTEE BE FROM THE SAME POLITICAL PARTY AS THE VACATING OFFICEHOLDER UNLESS THE OFFICEHOLDER WAS ELECTED AS AN INDEPENDENT CANDIDATE; MODIFYING THE DEADLINE FOR SUBMITTAL OF NOMINATING PETITIONS FOR AN ELECTION TO FILL A VACANCY; AMENDING SECTIONS 13-10-505 AND 13-25-203, MCA; REPEALING SECTIONS 13-25-202 and 13-35-205, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE; repealing sections 13-25-202 and 13-25-205, MCA."

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 13-10-505, MCA, is amended to read:

"**13-10-505. Applicability.** The provisions of 13-10-501 through 13-10-504 ~~shall~~ may not be used to fill vacancies or to nominate candidates in nonpartisan elections ~~except for nominations to fill a vacancy as provided in 13-25-205.~~"

Section 2. Section 13-25-203, MCA, is amended to read:

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"13-25-203. Vacancy in office of United States senator or representative. (1) If a vacancy occurs in the office of United States senator or representative, the governor shall immediately order an election to be held to fill the vacancy, ~~except as provided in subsection (3).~~

(2) ~~(a) The election to fill the unexpired term must be held no less than 85 or more than 100 days from the date on which the vacancy occurs, except that if the vacancy occurs 150 days or less before a primary election or between the primary and general elections in odd-numbered years, the election must be held with the primary or general election. An election to fill the vacancy must be held in conjunction with the next federal, state, or municipal primary or general election that is not less than 125 days after the vacancy occurs. The election must be conducted as a separate election for the specific purpose of filling the unexpired term of the vacating officeholder and is in addition to the regular federal primary or federal general election for the next term of office.~~

(b) Each political party that had a candidate on the ballot in the last federal general election for the office may choose a candidate according to the party's rules.

(c) Political party nominations under subsection (2)(b) and nominating petitions under 13-10-503 or 13-10-601 must be filed by 5 p.m. on the 85th day before the election.

(3) ~~(a) If the vacancy occurs between the primary and general election in even-numbered years, the~~ The candidate elected to the office for the succeeding full term at an election

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to fill the vacancy shall, following the election and upon being sworn in by the United States senate or house of representatives, immediately take office to fill the unexpired term.

(b) If the election to fill the vacancy is held at the same time as the federal general election to fill the office for the next regular term, the term of office for the person elected to fill the vacancy must commence immediately, as provided in subsection (3)(a), irrespective of whether the person elected to fill the vacancy is the same person who wins the general election for the new term.

(4) (a) The governor shall make a temporary appointment to fill the vacancy in the United States senate or house of representatives. The term of office for the appointee is only until the person elected to fill the vacancy is sworn in.

(b) The person appointed by the governor must be of the same political party as the vacating officeholder when the officeholder elected to that office unless the person was elected as an independent candidate.

(5) If the person vacating the office represented a political party, then:

(a) within 3 days after being notified of a vacancy, the governor shall notify the political party that was represented by the vacating officeholder;

(b) within 15 days after being notified of a vacancy, the state party central committee shall forward to the governor a list of three prospective appointees; and

(c) within 15 days after receiving the list of prospective

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appointees, the governor shall appoint a person on the submitted list to fill the vacancy."

NEW SECTION. **Section 3. {standard} Repealer.** The following sections of the Montana Code Annotated are repealed:

13-25-202. Vacancy in office of United States senator.

13-25-205. Nominations for special election.

NEW SECTION. **Section 4. Effective date.** [This act] is effective on passage and approval.

- END -

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Comparison of Current Bill - SB0169.02 (As amended by the Senate) and
Amendments Proposed by Rep. Bennett as a Substitute Bill

ISSUE OR QUESTION	CURRENT BILL	AMENDMENTS
Is a vacancy in the U.S. Senate or House to be filled by election or by appointment?	It depends. Election must be held to fill a vacancy in the office of <u>U.S. Senator</u> , EXCEPT no election to fill the vacancy would be held if the vacancy occurred between the federal primary and the federal general election. In this case, the governor's appointee would serve out remainder of term until next term starts in January for regularly elected candidate. But, for a U.S. Representative vacancy, the winner assumes office immediately.	In all cases, an election is held to fill a vacancy in either U.S. Senate or House and the person elected to fill the vacancy will assume the office immediately.
How much time would there be between the vacancy and the election?	85 days (allows only 10 days for nominees to be selected or signatures to be gathered for nominating petitions, which must be made or filed by the 75th day before the election, the same day that the ballot is supposed to be certified).	125 days - Allows 30 days for nominations by political parties and petitions to be filed for independents and minor parties. Allows 10 days after receipt of nominations and petitions for election administrators to certify the ballot.
Would the election be a special election (on a special day) or held with a regular election?	It depends. The election to fill a vacancy would be on a special day unless the vacancy occurs 85 days before a municipal general (not a municipal primary), federal primary, or federal general. In these cases, the election to fill the vacancy would be held at the same time as those other elections. And, if the election would coincide with the regular election for the office, no election to fill the vacancy would be held.	In all cases, the election to fill the vacancy would be held with a primary or general election, including a municipal primary. The election to fill the vacancy would always be held as a separate and distinct election.

ISSUE OR QUESTION	CURRENT BILL	AMENDMENTS
Would the governor be required to make a temporary appointment?	No.	Yes.
Would the winner of the election to fill the vacancy be appointed or considered elected to fill the vacancy?	Appointed. After an election to fill a vacancy, the governor then appoints the winner of the election to fill the vacancy, but this is for the U.S. Senate vacancy only.	Elected. After an election to fill a vacancy, the winner of the election immediately takes office whether it was a U.S. Senate or U.S. House vacancy.
Does the temporary appointee have to be of the same political party as the vacating officeholder?	Yes... but , see next box below. The governor's temporary appointment must be someone of same political party as the vacating officeholder was when the officeholder was when elected <u>or</u> <u>appointed</u> (not sure why the "or appointed" language is in there because the appointment is what the section is covering, so this could be a technical error)	Yes ... but , see next box below... the "or appointed" is taken out.
Is there an exception to the appointee being of the same political party as the vacating officeholder?	Yes. The governor's temporary appointment must be of same political party only if the vacating officeholder was from a political party entitled to be on the ballot for a primary election under 13-10-601, which is based on statewide offices (not federal) and the number of electors who voted for the successful candidate for governor. Otherwise, no restriction to same political party.	Yes. The temporary appointment must be from same political party, unless the person was an independent. No internal reference to the qualifications for the ballot based on the electors who voted for the governor.

ISSUE OR QUESTION	CURRENT BILL	AMENDMENTS
What are the deadlines associated with nominees for the governor's temporary appointment and for the appointment?	Governor notifies political parties within 3 days of a vacancy.	Same.
	Within 15 days after being notified of the vacancy, the political party nominates three prospective appointees.	Same.
	The governor must select an appointee from the list within 15 days after receiving the list.	Same.
When is the bill effective?	Immediate effective date.	Same.